

REMARKS

Claim 44 is cancelled. Claims 1, 7 and 40 have are currently amended. Claims 1-43 and 45-50 remain in the application for consideration. In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject application.

§§ 102 and 103 Rejections

Claims 1-2, 4-5, 12-15, 18, 21-23, 25, 29-30, 33, 37-41 and 43 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,929,849 to Kikinis (hereafter “Kikinis”).

Claims 3, 6-11, 16-17, 19-20, 24, 26-28, 31-32, 34-36, 42 and 44-50 stand rejected under U.S.C. §103(a) as being unpatentable over Kikinis in view of WIPO Patent No. WO96/10888 to Adams et al. (hereinafter “Adams”).

Claims Rejected over Kikinis under §§ 102 and 103

Claim 1 has been amended and recites a method comprising the following steps [added language appears in bold italics]:

- transmitting a video stream; and
- formatting supplemental data files in a graphical markup language, each supplemental data file having instructions for rendering a hyperlink overlay on the video stream, *wherein formatting comprises setting transparent areas of each hyperlink overlay to a key color*;
- transmitting the supplemental data files along with the video stream.

In making the rejection, the Office argues that Kikinis anticipates the subject matter in the claim. Specifically, the Office states: “each supplemental

1 data file having instruction for rendering over on the video stream' reads on the
2 executing the 'Dynamic URL' by a browser to render over the video stream as
3 shown on Fig. 2C (see Fig. 3A, el. 87 and 91; Col. 8, lines 5-37)". Applicant
4 respectfully disagrees and traverses the Office's rejection.

5 In Applicant's previous response filed August 9, 2004, Applicant submitted
6 that the Office had mischaracterized *this claim element* by substituting actual
7 claim language "...for rendering a hyperlink overlay on the video stream;" with
8 different language: "...for rendering over on the video stream". Applicant further
9 explained that Kikinis discloses the rendering of a Dynamic URL, specifically as a
10 downloaded webpage in a superimposed window. (See, e.g. Kikinis, column 8
11 lines 13-15). This superimposed window does not *render a hyperlink overlay* on
12 the video stream, as that term is understood in the context of Applicant's
13 disclosure. Instead, the window is superimposed *on top of* the underlying video
14 display, as illustrated in Kikinis Fig. 2C (which shows a webpage and other
15 entities *occluding* the video/TV display directly behind it).

16 Nonetheless, Applicant has amended this claim to include "*wherein*
17 *formatting comprises setting transparent areas of each hyperlink overlay to a*
18 *key color*". Applicant submits that neither Kikinis nor Adams, either singly or in
19 combination, teach or suggest "setting transparent areas of each hyperlink overlay
20 to a key color", as claimed.

21 Accordingly, for at least the reasons given above, this claim is allowable.

22 **Claims 2-15** depend from claim 1 and are allowable as depending from an
23 allowable base claim. These claims are also allowable for their own recited
24 features which, in combination with those recited in claim 1, are neither disclosed
25 nor suggested in the references of record, either singly or in combination with one

1 another. In addition, given the allowability of claim 1, the rejection of claims 3
2 and 6-11 over the combination with Adams is not seen to add anything of
3 significance.

4 **Claim 16** recites a method comprising the following steps [emphasis
5 added]:

- 6
- 7 • transmitting a video stream; and
- 8 • formatting HTML files having instructions for rendering hyperlink
9 pages on a video stream, the *hyperlink pages having transparent*
10 *areas that are set to a key color; and*
- 11 • associating the HTML files with the video stream; and
- 12 • *displaying the hyperlink pages on a display; and*
- 13 • displaying the video stream on the display in areas of *displayed*
14 *hyperlink pages that are set to a key color.*

15 In making out the rejection of this claim, the Office argues that the
16 combination of Kikinis and Adams discloses the subject matter of this claim.
17 Specifically, the Office merely argues that its analysis in respect to claims 1-3 and
18 5 suffices to support the rejection.

19 Applicant is confused as to how the Office's analysis in claims 1-3 and 5 is
20 relevant to this claim. For instance, claims 1-3 and 5 do not expressly recite:
21 "formatting HTML files having instructions for rendering hyperlink pages on a
22 video stream, the *hyperlink pages having transparent areas that are set to a key*
23 *color;*" or "displaying the video stream on the display in areas of *displayed*
24 *hyperlink pages that are set to a key color.*" Applicant respectfully submits that
25 the Office has improperly expressed this rejection, as described by MPEP
707.07(d).

1 MPEP 707.07(d) states that “[a] plurality of claims should never be
2 grouped together in a common rejection, unless the rejection is equally applicable
3 to all claims in the group.” In addition, Applicant respectfully submits that the
4 pertinence of Kikinis and Adams has not been explained. MPEP 707.05 states that
5 “[w]hen such prior art is cited, its pertinence should be explained.” Applicant
6 therefore requests that the examiner clearly communicate the basis for this
7 rejection.

8 Nevertheless, Applicant submits that the cited references do not teach or
9 suggest all features of this claim. For instance, in Applicant’s previous response
10 filed August 9, 2004, Applicant explained that neither Kikinis nor Adams disclose
11 or suggest “hyperlink pages having *transparent areas* that are set to a *key color*”,
12 as claimed. In response, the Office disagrees, but rather than explaining the
13 pertinence of Kikinis or Adams, it merely cites specific portions of Adams.
14 Applicant submits that these excerpts merely indicate that an associated data
15 stream may be carried “via a chrominance key” and that command functions may
16 determine how the video/audio stream and any associated objects are ultimately
17 displayed. While these *functions* may include “ordering of graphic text items for
18 layering on the screen”, “Background: transparent...”, or “Foreground:
19 visible/invisible”, Applicant fails to see how this discloses or suggests “formatting
20 HTML files having instructions for rendering hyperlink pages on a video stream,
21 the *hyperlink pages having transparent areas that are set to a key color*” or
22 “displaying the video stream on the display in areas of *displayed hyperlink pages*
23 *that are set to a key color*”. Furthermore, Applicant submits that the
24 “chrominance key” mentioned in Adams is merely one of several means of
25 transferring an associated data stream and is not implicated in such a way as to

1 disclose the subject matter of this claim. For instance, Applicant directs the
2 Office's attention to Adams page 6, lines 9-12 and page 20, lines 15-17, which are
3 reproduced below [emphasis added]:

4
5 Another object of the present invention is to provide an interactive
6 video system that employs the vertical blanking intervals of the
7 video frames of a video signal or chrominance, sideband, or audio
8 sub carrier signals *to transfer the associated data stream*.

9
10 For other embodiments, *the associated data stream is carried via* a
11 chrominance key, a sideband transmission, or an audio sub carrier.

12
13 Finally, Applicant reminds the Office that there must be some suggestion or
14 motivation, either in the references themselves or in the knowledge generally
15 available to one of ordinary skill in the art, to modify the reference or to combine
16 reference teachings. (*In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir.
17 1992); *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); see also
18 MPEP 2143). Here, Adams and Kikinis contain no such suggestion or motivation.
19 Furthermore, Applicant respectfully reminds the Office that it bears the burden of
20 explaining "why the combination of the teachings is proper" (MPEP 2142). Here,
21 no such explanation has been proffered by the Office. In this regard, the Office's
22 stated motivation regarding claim 3 is not relevant because the subject matter
23 recited of claim 3 is not expressly recited in this claim.

24
25 In view of the above discussion, the Office has not established a *prima*
facie case of obviousness and has made an improper rejection. Hence, for at least
these reasons, this claim is allowable.

1 **Claims 17-23** depend from claim 16 and are allowable as depending from
2 an allowable base claim. These claims are also allowable for their own recited
3 features which, in combination with those recited in claim 16, are neither disclosed
4 nor suggested in the references of record, either singly or in combination with one
5 another.

6 **Claim 24** discloses a method comprising the following steps [emphasis
7 added]:

- 8 • receiving a video stream; and
- 9 • associating one or more *hyperlink pages* with the video stream, the
10 *hyperlink pages having transparent areas that are set to a key*
11 *color*; and
- 12 • displaying the hyperlink pages on a display; and
- 13 • *displaying the video stream on the display in areas of displayed*
14 *hyperlink pages that are set to a key color.*

15 In making out the rejection of this claim, the Office argues that the
16 combination of Kikinis and Adams discloses the subject matter of this claim.
17 Specifically, the Office argues that its analysis in respect to claims 1-3, 5 and 7
18 suffices to support the rejection. Specifically, in regards to claim 7, the Office
19 argues that “Adams discloses the step of setting transparent areas of each
20 associated graphic/text items overlay to a key color (page 20, lines 18-page 21,
21 lines 10), the displaying step comprises displaying the video stream only in the
22 areas of the hyperlink overlays that are set to a key color (page 23, lines 10-page
23 24, lines 10).” The Office then argues that it would have been obvious to modify
24 Kikinis with Adams “so as to enable the receiver to define windows according to
25 the specifications provided by the associated data to display received video data
stream within the defined windows (page 22, lines 10-page 23, lines 2).”

1 Applicant respectfully disagrees and traverses the Office's rejection.
2 Applicant submits the cited references do not teach or suggest all features of this
3 claim and the Office has mischaracterized the Adams reference. Specifically, the
4 cited excerpt on pages 20-21 merely indicates that an associated data stream may
5 be carried "via a chrominance key" (one of several means of transferring an
6 associated data stream) and lists an embodiment of the command protocol
7 containing commands that perform a list of functions. However, nothing discusses
8 "hyperlink pages having transparent areas that are set to a key color", as the Office
9 contends. Similarly, the cited excerpt on pages 23-24 discusses characteristics of
10 associated data packets and commands associated with them, but does not disclose
11 or suggest "the displaying step comprises displaying the video stream only in the
12 areas of the hyperlink overlays that are set to a key color", as the Office contends.

13 Finally, as discussed above, there must be some suggestion or motivation,
14 either in the references themselves or in the knowledge generally available to one
15 of ordinary skill in the art, to modify the reference or to combine reference
16 teachings. (*In re Jones*; see also MPEP 2143). Here, Adams and Kikinis contain
17 no such suggestion or motivation. Furthermore, as noted above, the Office bears
18 the burden of explaining "why the combination of the teachings is proper." (MPEP
19 2142). Here, the Office's only attempt at such an explanation is to state that one
20 would have been motivated "so as to enable the receiver to define windows
21 according to the specifications provided by the associated data to *display received*
22 *video data stream within the defined windows*". The Office cites Adams in
23 support of this statement which merely describes functionality of Adams and fails
24 to explain *why* the combination is proper. (Adams, page 22, line 24 – page 23, line
25 3, states: "the video driver routines 108 enable the client runtime manager 102 to

1 display the incoming video data stream within the video window 40 on the display
2 surface 50 of the display device 12.”)

3 As an aside, the Office has provided a paper, available at the following
4 link:

5 <http://www.uspto.gov/web/menu/busmethp/busmeth103rej.htm>

6
7 that describes proper and improper rejections made under §103(a).
8 Particularly instructive is a portion that appears in Section IV of the paper which
9 provides guidance in regards to communicating a proper §103(a) rejection. The
10 pertinent part of this paper is reproduced below for the Office’s convenience:

11
12 **IV. Communicating the Rationale for a Proper Rejection under 35 U.S.C.
103**

13 When an examiner rejects a claim as failing to meet one or more of the statutory
14 requirements for patentability, administrative due process and 35 U. S.C. 132
15 require that applicant be adequately notified of the reasons for the rejection of the
16 claim so that applicant can decide how to proceed. The statutory requirement that
an Office action state the reasons for any rejection is critical to proper action
taking.

17 In writing a rejection under 35 U.S.C. 103, the examiner should appropriately
18 communicate:

- 19 (1) the particular part of a reference being relied upon should be designated as
nearly as practicable; 37 CFR § 1.104(c)(2);
20 (2) the differences between the claimed invention and the closest prior art;
21 (3) where the differences are found or suggested in the prior art;
22 (4) how the teachings of the prior art are combined; and
23 (5) ***why the combination of those teachings would have been obvious to one of***
ordinary skill in the art at the time the invention was made. Do not recite the
disclosure of the prior art which reads on the claimed invention as the
motivation. Communicate why the references themselves, the knowledge of one
of ordinary skill in the art, or the nature of the problem to be solved establishes
a motivation to combine the prior art references.
24
25

1 Once applicant has presented rebuttal evidence, examiners should reconsider any
2 initial obviousness determination in view of the entire record. All the proposed
3 rejections and their bases should be reviewed to confirm their correctness. Only
4 then should any rejection be imposed in an Office action. The Office action
5 should clearly communicate the Office's findings and conclusions, *articulating
6 how the conclusions are supported by the findings.*

7 Here, as discussed above, the Office's stated motivation merely recites the
8 disclosure of Adams and is unacceptable, as demonstrated by the Office's own
9 guidance given above.

10 In view of the above discussion, the Office has not established a *prima
11 facie* case of obviousness and has made an improper rejection. Hence, for at least
12 these reasons, this claim is allowable.

13 **Claims 25-31** depend from claim 24 and are allowable as depending from
14 an allowable base claim. These claims are also allowable for their own recited
15 features which, in combination with those recited in claim 24, are neither disclosed
16 nor suggested in the references of record, either singly or in combination with one
17 another.

18 **Claim 32** discloses a computer-readable storage medium having computer-
19 executable instructions for performing steps comprising [emphasis added]:

- 20 • receiving a video stream; and
- 21 • associating one or more hyperlink pages with the video stream, *the
22 hyperlink pages having transparent areas that are set to a key
23 color*; and
- 24 • displaying the hyperlink pages on a display; and
- 25 • *displaying the video stream on the display in areas of displayed
hyperlink pages that are set to a key color.*

1 In making out the rejection of this claim, the Office argues that the
2 combination of Kikinis and Adams disclose the subject matter of this claim.
3 Specifically, the Office argues that the Office's analysis in respect to claims 1-3, 5
4 and 7 suffices to support the rejection.

5 Applicant respectfully disagrees and traverses the Office's rejection. As
6 discussed above, the cited references do not teach or suggest "hyperlink pages
7 having transparent areas that are set to a key color" or "displaying the video
8 stream on the display in areas of displayed hyperlink pages that are set to a key
9 color", as claimed. Additionally, the references contain no suggestion or
10 motivation to combine the teachings of Adams with Kikinis and the Office fails to
11 explain *why* the combination is proper.

12 In view of the above discussion, the Office has not established a *prima*
13 *facie* case of obviousness and has made an improper rejection. Hence, for at least
14 these reasons, this claim is allowable.

15 **Claims 33-39** depend from claim 32 and are allowable as depending from
16 an allowable base claim. These claims are also allowable for their own recited
17 features which, in combination with those recited in claim 32, are neither disclosed
18 nor suggested in the references of record, either singly or in combination with one
19 another.

20 **Claim 40** has been amended and recites a video broadcast system
21 comprising [added language appears in bold italics]:

- 22 • a broadcast source that broadcasts a video stream and provides
23 accompanying supplemental data files, each supplemental data file
24 having instructions for rendering a hyperlink overlay on the video
25 stream; and

- a receiver configured to receive the video stream and accompanying supplemental data files and to display the hyperlink overlays in conjunction with the video stream, *wherein the receiver comprises color keying hardware that displays video only in display areas that are set to a key color, the hyperlink overlays having transparent areas that are set to a key color.*

In making out the rejection of claim 40, the Office argues that supplemental data files having instructions for “rendering a *hyperlink* overlay on the video stream” reads on the Dynamic URL notoriously known in the computer art with CGI extension or Script with coded syntax in different format. The Office refers to column 8, lines 5-18 and column 10, lines 18-25, of Kikinis and argues that its system must be formatted at the server/headend with such a file. The Office also argues that Kikinis (as illustrated in Fig. 1, 2C, and 3A) discloses “a receiver configured to receive the video stream and accompanying supplemental data file and to *display the overlays* in conjunction with the video stream. “

In Applicant’s previous response filed August 9, 2004, Applicant respectfully disagreed and submitted that Kikinis’ superimposed window does not render a *hyperlink overlay* on the video stream, as the term “hyperlink overlay” is used and defined in Applicant’s specification, and, in point of fact, teaches directly away therefrom.

Nonetheless, Applicant has amended this claim to include “*wherein the receiver comprises color keying hardware that displays video only in display areas that are set to a key color, the hyperlink overlays having transparent areas that are set to a key color*”. Applicant submits that neither Kikinis nor Adams, either singly or in combination, teaches or suggest “setting transparent areas of each hyperlink overlay to a key color”, as claimed.

1 Accordingly, for at least the reasons given above, this claim is allowable.

2 **Claims 41-43** depend from claim 40 and are allowable as depending from
3 an allowable base claim. These claims are also allowable for their own recited
4 features which, in combination with those recited in claim 40, are neither disclosed
5 nor suggested in the references of record, either singly or in combination with one
6 another. In addition, given the allowability of claim 40, the rejection of claim 42
7 over the combination with Adams is not seen to add anything of significance.

8 **Claim 45** recites a receiver for receiving and displaying video streams,
9 comprising [emphasis added]:

- 10 • display hardware for displaying video streams and bit-mapped
11 images to a user; and
- 12 • the display hardware including *color keying hardware that displays*
13 *video in display areas that are set to a key color*; and
- 14 • access means for reading supplemental data files that have
15 instructions for rendering *bit-mapped hyperlink overlays in*
16 *conjunction with the video stream at indicated times*; and
- 17 • a data processor that reads the supplemental data files and in
18 response displays the *hyperlink overlays* at the indicated times,
19 wherein the *hyperlink overlays have transparent areas that are set*
20 *to a key color, the hyperlink overlays thus appearing to overlay the*
21 *video streams*.

22 In making out the rejection of this claim, the Office argues that the
23 combination of Kikinis and Adams discloses the subject matter of this claim. The
24 Office first argues that Kikinis discloses a step of transmitting supplemental data
25 files (Dynamic URLs) to display *hyperlink overlays* as discussed in claim 1.
Applicant respectfully disagrees, and as discussed above, submits that Kikinis
discloses the rendering of a Dynamic URL specifically as a downloaded webpage

1 in a *superimposed* window and does not disclose or suggest rendering *hyperlink*
2 *overlays*, as understood in the context of Applicant's disclosure.

3 The Office also argues that Adams discloses display hardware, as recited in
4 this claim, including "color-keying hardware that displays video in display areas
5 that are set to a key color", and cites Fig. 2, el. 56. The Office states that page 20,
6 lines 18-page 21, lines 10, disclose "wherein the overlays have transparent areas
7 that are set to a key color; the overlays thus appearing to overlay the video
8 streams". The Office then reasons that it would have been obvious to modify
9 Kikinis with Adams "so to enable the receiver to define windows according to the
10 specifications provided by the associated data to display received video data
11 stream within the defined windows (page 22, lines 10-page 23, lines 2)."

12 Applicant respectfully disagrees and traverses the Office's rejection.
13 Applicant respectfully submits these excerpts do not teach or suggest all features
14 of this claim and that the Office has mischaracterized the Adams reference.
15 Specifically, nothing in the Adams reference teaches that Fig. 2, el. 56 includes
16 "color-keying hardware that displays video in display areas that are set to a key
17 color. Additionally, as discussed above, the cited excerpt on pages 20-21 merely
18 indicates that an associated data stream may be carried "via a chrominance key"
19 (one of several means of transferring an associated data stream) and lists an
20 embodiment of the command protocol containing commands that perform a list of
21 functions. However, nothing discloses "wherein the overlays have transparent
22 areas that are set to a key color; the overlays thus appearing to overlay the video
23 streams", as the Office contends.

24 In summary, neither reference discloses or suggests "*color keying*
25 *hardware* that displays video *in display areas that are set to a key color*", *bit-*

1 *mapped hyperlink overlays in conjunction with the video stream at indicated*
2 *times, displaying the “hyperlink overlays at the indicated times”, or “hyperlink*
3 *overlays having transparent areas that are set to a key color, where the*
4 *hyperlink overlays thus appear to overlay the video streams”, as claimed. Hence,*
5 for at least these reasons, this claim is allowable.

6 Finally, there is no suggestion or motivation in Adams or Kikinis to
7 combine these teachings, and the Office’s only stated motivation is that one would
8 have been motivated “so as to enable the receiver to define windows according to
9 the specifications provided by the associated data to *display received video data*
10 *stream within the defined windows”*. As noted above, this statement merely
11 describes functionality of Adams and fails to explain *why* the combination is
12 proper. Therefore, as demonstrated by the Office’s own guidance, this stated
13 motivation is unacceptable.

14 In view of the above discussion, the Office has not established a *prima*
15 *facie* case of obviousness and has made an improper rejection. Hence, for at least
16 these reasons, this claim is allowable.

17 **Claims 46-50** depend from claim 45 and are allowable as depending from
18 an allowable base claim. These claims are also allowable for their own recited
19 features which, in combination with those recited in claim 45, are neither disclosed
20 nor suggested in the references of record, either singly or in combination with one
21 another. In addition, given the allowability of claim 45, the rejection of claims 46-
22 50 over the combination with Adams is not seen to add anything of significance.

1
2
3
4 **Conclusion**

5 All of the claims are in condition for allowance. Accordingly, Applicant
6 requests a Notice of Allowability be issued forthwith. If the Office's next
7 anticipated action is to be anything other than issuance of a Notice of Allowability,
8 Applicant respectfully requests a telephone call for the purpose of scheduling an
9 interview.
10

11 Respectfully Submitted,

12
13 Dated: 6/10/05

14 By: 

15 Lance R. Sadler
16 Reg. No. 38,605
17 (509) 324-9256
18
19
20
21
22
23
24
25